

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JULIA O'CONNELL,

Plaintiff,

v.

Case No. 07-C-637

NORTHLAND LUTHERAN, RETIREMENT
COMMUNITY, EMPLOYEE HEALTH PLAN,
NORTHLAND LUTHERAN RETIREMENT
COMMUNITY, INC., and PROFESSIONAL BENEFIT
ADMINISTRATORS, INC.,

Defendants.

ORDER

Plaintiff has filed an expedited motion under Civil L. R. 7.4 seeking entry of judgment. A stipulation of dismissal was filed on March 9, and this Court entered an order awarding attorney's fees of \$43,925 on March 19. Although Defendants state that they have paid roughly \$17,000 of this total to the Plaintiffs' law firm since then, they claim they are in difficult financial straits and have not been able to pay the entirety of it. They have been making incremental payments thus far with no objection from the Plaintiff's law firm. Plaintiff's firm now evidently wishes to reduce the matter to a judgment to make the balance more easily collectible (it is assumed).

In opposing the motion for entry of judgment, Defendants note that Rule 58(a) specifically provides that attorney's fees are not required to be part of the judgment. Fed. R. Civ. P. 58(a). And Rule 54 allows for attorney's fees matters to be litigated following the entry of any judgment, which means that fees are not normally the subject of their own judgment in the underlying civil case. Fed. R. Civ. P. 54(d)(2). Even so, there is nothing within the rules that would prohibit entry of a

judgment awarding attorney's fees. In fact, attorney's fees are frequently incorporated into judgments, whether amended judgments or otherwise. The Defendants' objection is that they are financially strapped. That speaks to their ability to pay, however, not to whether a judgment should be entered against them. Accordingly, the motion for entry of judgment is **GRANTED**. A judgment will be entered, *nunc pro tunc* March 19, 2009, indicating that Plaintiff is awarded fees in the amount of \$43,925.21, to be paid by the Defendants.

SO ORDERED this 7th day of December, 2009.

s/ William C. Griesbach

William C. Griesbach

United States District Judge